

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Twin City Pipe Trades Service
Association, Inc.,

Plaintiff,

Civ. No. 10-3012 (RHK/LIB)
ORDER

v.

Performance Contractors, LLC,

Defendant.

This matter came on for a hearing before the undersigned on Plaintiff's Motion for Default Judgment (Doc. No. 7). A hearing was held on December 20, 2010, at which William A. Cumming of Hessian & McKasy, PA, appeared on behalf of Plaintiff; Defendant did not appear. Based on the foregoing, and all the files, records, and proceedings herein, and for the reasons stated on the record at the hearing, **IT IS ORDERED** as follows:

1. Defendant is in default, and Plaintiff is entitled to a default judgment in an amount to be later determined;
2. Defendant is liable for all fringe benefit contributions and associated liquidated damages found to be due and owing to Plaintiff for the months of March 2010 through the present, as well as for Plaintiff's reasonable attorneys' fees and costs incurred in pursuing the delinquent contributions;
3. Defendant is **ORDERED** to submit to Plaintiff all books, records, and other documents necessary for Plaintiff to calculate the required fringe benefit

contributions for the period of March 2010 through the present, including documents correctly identifying the hours worked by Defendant's employees pursuant to the Collective Bargaining Agreement between Defendant and the area Plumbers and Pipefitters Unions (including Locals No. 15, 455 & 539). Defendant must submit the required information to Plaintiff within ten (10) days of the date on which it is personally served with a copy of this Order. **Defendant is warned that its failure to comply may result in a finding of contempt of Court and appropriate sanctions or penalties, including the incarceration of Defendant's principal(s) until compliance is made;** and

4. Plaintiff's Motion for Default Judgment (Doc. No. 7) is **DEFERRED**. After Plaintiff has received the information outlined in paragraph 3 above, it may file and serve a Motion for Entry of a Money Judgment in the amount it determines Defendant owes for delinquent contributions and liquidated damages, as well as reasonable attorneys' fees and costs. Defendant may then serve and file a response to Plaintiff's Motion within ten (10) days of the date the Motion is served.¹ The Court will examine the parties' submissions and issue an order for judgment as it deems appropriate. No hearing will be held unless the Court orders otherwise.

Dated: December 20, 2010

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge

¹ Such a response must be filed by an attorney admitted to practice before this Court, rather than an officer or principal of Defendant. See, e.g., United States v. Van Stelton, 988 F.2d 70 (8th Cir. 1993) (*per curiam*) (corporation cannot appear *pro se*).